

Appendix B

STATUTES AND REGULATIONS

There are several hundred laws and regulations applicable to railroad operations. Many of these are very long. Some treat several subjects. Most do not relate to wildland fire prevention. This appendix has been designed to present only those laws and regulations, or portions thereof, which pertain to wildland fire prevention and operational safety. As such this appendix should be used only as a quick field reference. For full current text, meaning and proper context of laws and regulations, reference should be made to the applicable code books.

I. STATE LAWS

HEALTH AND SAFETY CODE (HSC)

Section 13000 - Responsibility in Control of Fire.

Every person is guilty of a misdemeanor who allows a fire kindled or attended by him to escape from his control or to spread to the lands of any person other than the builder of the fire without using every reasonable and proper precaution to prevent the fire from escaping.

Section 13001 – Causing Fire, Misdemeanor.

Every person is guilty of a misdemeanor who, through careless or negligent action, throws or places any lighted cigarette, cigar, ashes, or other flaming or glowing substance, or any substance or thing which may cause a fire, in any place where it may directly or indirectly start a fire, or who uses or operates a welding torch, tar pot or any other device which may cause a fire who does not clear the inflammable material surrounding the operation or take such other reasonable precautions necessary to insure against the starting and spreading of fire.

Section 13002 - Throwing from Vehicle Substance which May Cause Fire.

(a) Every person is guilty of a misdemeanor who throws or discharges any lighted or nonlighted cigarette, cigar, match, or any flaming or glowing substance, or any substance or thing which may cause a fire upon any highway, including any portion of the right-of-way of any highway, upon any sidewalk, or upon any public or private property. This subdivision does not restrict a private owner in the use of his or her own private property, unless the placing, depositing, or dumping of the waste matter on the property creates a public health and safety hazard, a public nuisance, or a fire hazard, as determined by a local health department, local fire department or fire district, or the Department of Forestry and Fire Protection, in which case this section applies.

(b) Every person convicted of a violation of this section shall be punished by a mandatory fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) upon a first conviction, by a mandatory fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) upon a second conviction, and by a mandatory fine of not less than seven hundred fifty dollars (\$750) nor more than one thousand dollars (\$1,000) upon a third or subsequent conviction.

The court may, in addition to the fine imposed upon a conviction, require as a condition of probation, in

addition to any other condition, that any person convicted of a violation of this section pick up litter at a time and place within the jurisdiction of the court for not less than eight hours.

Section 13003 – Spark arresters required on steam powered equipment.

Every person is guilty of a misdemeanor who uses any steam-powered logging locomotive, donkey, or threshing engine, or any other steam engine or steam boiler, in or near any forest, brush, grass, grain, or stubble land, unless the steam engine or steam boiler is provided with adequate devices to prevent the escape of fire or sparks and unless he uses every reasonable precaution to prevent the causing of fire thereby.

Section 13007 - Liability for Damage.

Any person who personally or through another willfully, negligently, or in violation of law, sets fire to, allows fire to be set to, or allows a fire kindled or attended by him to escape to, the property of another, whether privately or publicly owned, is liable to the owner of such property for any damages to the property caused by the fire.

Section 13008 - Due Diligence Required.

Any person who allows any fire burning upon his property to escape to the property of another, whether privately or publicly owned, without exercising due diligence to control such fire, is liable to the owner of such property for the damages to the property caused by the fire.

Section 13009 - Suppression Cost Collectible.

(a) Any person (1) who negligently, or in violation of the law, sets a fire, allows a fire to be set, or allows a fire kindled or attended by him or her to escape onto any public or private property, (2) other than a mortgagee, who, being in actual possession of a structure, fails or refuses to correct, within the time allotted for correction, despite having the right to do so, a fire hazard prohibited by law, for which a public agency properly has issued a notice of violation respecting the hazard, or (3) including a mortgagee, who, having an obligation under other provisions of law to correct a fire hazard prohibited by law, for which a public agency has properly issued a notice of violation respecting the hazard, fails or refuses to correct the hazard within the time allotted for correction, despite having the right to do so, is liable for the fire suppression costs incurred in fighting the fire and for the cost of providing rescue or emergency medical services, and those costs shall be a charge against that person. The charge shall constitute a debt of that person, and is collectible by the person, or by the federal, state, county, public, or private agency, incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied.

(b) Public agencies participating in fire suppression, rescue, or emergency medical services as set forth in subdivision (a), may designate one or more of the participating agencies to bring an action to recover costs incurred by all of the participating agencies. An agency designated by the other participating agencies to bring an action pursuant to this section shall declare that authorization and its basis in the complaint, and shall itemize in the complaint the total amounts claimed under this section by each represented agency.

(c) Any costs incurred by the Department of Forestry and Fire Protection in suppressing any wildland fire originating or spreading from a prescribed burning operation conducted by the department pursuant to a contract entered into pursuant to Article 2 (commencing with Section 4475) of Chapter 7 of Part 2 of Division 4 of the Public Resources Code shall not be collectible from any party to the contract, including

any private consultant or contractor who entered into an agreement with that party pursuant to subdivision (d) of Section 4475.5 of the Public Resources Code, as provided in subdivision (a), to the extent that those costs were not incurred as a result of a violation of any provision of the contract.

(d) This section applies to all areas of the state, regardless of whether primarily wildlands, sparsely developed, or urban.

PUBLIC RESOURCES CODE (PRC)

Section 4021 - Penalty.

Except as otherwise provided the willful or negligent commission of any of the acts prohibited or the omission of any of the acts required by Chapter 2 (commencing with Section 4251) to Chapter 6 (commencing with Section 4411), inclusive, of Part 2 of this division is a misdemeanor.

Section 4101 - “Person” Defined.

“Person” includes any agency of the state, county, city, district, or other local public agency, and any individual, firm, association, partnership, business trust, corporation or company.

Section 4103 - “Forest Fire” Defined.

“Forest Fire” means a fire burning uncontrolled on lands covered wholly or in part by timber, brush, grass, grain, or other flammable vegetation.

Section 4104 - “Uncontrolled Fire” Defined.

The term “uncontrolled fire,” as used in this division, means any fire which threatens to destroy life, property, or resources and either: (1) is unattended by any person; 2) is attended by persons unable to prevent its unrestricted spread; or (3) is burning with such velocity or intensity that it could not be readily controlled with those ordinary tools available to private persons at the fire scene.

Section 4117 - Local Ordinances.

Any county, city, or district may adopt ordinances, rules, or regulations to provide fire prevention restrictions or regulations that are necessary to meet local conditions of weather, vegetation, or other fire hazards. Such ordinances, rules, or regulations may be more restrictive than state statutes in order to meet local fire hazard conditions.

Section 4118 - Burning of Vegetation, Public Purpose.

The burning of growing, dead, or downed vegetation is for a public purpose if the department has determined that the burning of such vegetation is necessary for the prevention or suppression of forest fires.

Section 4119 - Enforcement of State Forest and Fire Laws.

The department, or its duly authorized agent, shall enforce the state forest and fire laws. The department may inspect all properties, except the interior of dwellings, subject to the state forest and fire laws, for the purpose of ascertaining compliance with such laws.

Note: By interagency agreement, many employees of the U. S. Forest Service, Bureau of Land Management, National Park Service and certain county fire departments are “duly authorized agents” of the Department of Forestry and Fire Protection.

Section 4170 Uncontrolled Fire is Public Nuisance.

Any uncontrolled fire burning on any lands covered wholly or in part by timber, brush, grass, grain or any other flammable material, without proper precaution being taken to prevent its spread notwithstanding the origin of such fire, is a public nuisance by reason of its menace to life and property.

Section 4171 - Public Nuisances - Defined.

Any condition endangering public safety by creating a fire hazard and which exists upon any property which is included within any state responsibility area is a public nuisance.

Section 4172 - Abatement of Nuisance, Notice.

Whenever the director determines that a public nuisance, as defined in Section 4171, exists, he shall notify the owner of the property to abate the public nuisance. If the owner is unknown, a copy of the notice shall be posted upon the property.

Section 4291 - Firebreaks; Trimming of Trees; Chimney Screens; Variance or Exemption.

Any person that owns, leases, controls, operates, or maintains any building or structure in, upon, or adjoining any mountainous area or forest-covered lands, brush-covered lands, or grass-covered lands, or any land which is covered with flammable material, shall at all times do all of the following:

- Maintain around and adjacent to such building or structure a firebreak made by removing and clearing away, for a distance of not less than 30 feet on each side thereof or to the property line, whichever is nearer, all flammable vegetation or other combustible growth. This subdivision does not apply to single specimens of trees, ornamental shrubbery, or similar plants which are used as ground cover, if they do not form a means of rapidly transmitting fire from the native growth to any building or structure.
- Maintain around and adjacent to any such building or structure additional fire protection or firebreak made by removing all brush, flammable vegetation, or combustible growth which is located from 30 feet to 100 feet from such building or structure or to the property line, whichever is nearer, as may be required by the director if he finds that, because of extra hazardous conditions, a firebreak of only 30 feet around such building or structure is not sufficient to provide reasonable fire safety. Grass and other vegetation located more than 30 feet from such building or structure and less than 18 inches in height above the ground may be maintained where necessary to stabilize the soil and prevent erosion.
- Remove that portion of any tree which extends within 10 feet of the outlet of any chimney or stovepipe.
- Maintain any tree adjacent to or overhanging any building free of dead or dying wood.
- Maintain the roof of any structure free of leaves, needles, or other dead vegetative growth.
- Provide and maintain at all times a screen over the outlet of every chimney or stovepipe that is

attached to any fireplace, stove, or other device that burns any solid or liquid fuel. The screen shall be constructed of nonflammable material with openings of not more than one-half inch in size.

- Except as provided in Section 18930 of the Health and Safety Code, the director may adopt regulations exempting structures with exteriors constructed entirely of nonflammable materials, or conditioned upon the contents and composition of same, he may vary the requirements respecting the removing or clearing away of flammable vegetation or other combustible growth with respect to the area surrounding said structures.
- No such exemption or variance shall apply unless and until the occupant thereof, or if there be no occupant, then the owner thereof, files with the department, in such form as the director shall prescribe, a written consent to the inspection of the interior and contents of such structure to ascertain whether the provisions hereof and the regulations adopted hereunder are complied with at all times.

Note: Wooden culverts, trestles and bridges are considered as structures insofar as this code section is concerned.

Section 4296.5

(a) Any person or corporation operating a railroad on forest, brush, or grass covered land shall, if ordered by the director or the agency having primary responsibility for fire protection of the area, destroy, remove, or modify so as not to be flammable any vegetation or other flammable material defined by regulation of the director to be a fire hazard on the railroad right-of-way. The director shall adopt regulations establishing fire prevention hazard reduction standards for broad geographic areas by fuel type, slope, and potential for ignition from hot or flaming exhaust, carbon particles, hot metal, burning signal devices, burning tobacco, and other similar potential sources of ignition.

(b) The order to destroy, remove, or modify vegetation or other flammable material shall specify the location of the hazard to be destroyed, removed, or modified within the right-of-way, the width of the hazard which shall not exceed the width of the right-of-way, and the time within which compliance with the order is required.

(c) The director or the agency having primary responsibility for fire protection of the area shall allow a reasonable period of time for compliance with an order to destroy, remove, or modify vegetation or other flammable material.

Section 4413

“Zone A” includes Mono, Inyo, San Bernadino, Santa Barbara, Ventura, Los Angeles, Orange, Riverside, San Diego, and Imperial Counties.

Section 4414

“Zone B “ includes any county and portion of any county which is not included in Zone A.

Section 4422 - Allowing Fire to Escape.

A person shall not do any of the following:

- Willfully or knowingly allow fire to burn uncontrolled on land which he owns or controls, or to escape to the lands of any person other than that of the owner.

- Allow any fire kindled or attended by him to escape from his control or to spread to the land of any person other than from the land from which the fire originated.

Section 4423 - Burning Permits, Zones, Times.

A person shall not burn any brush, stumps, logs, fallen timber, fallows, slash, grass-covered land, brush-covered land, forest-covered land, or other flammable material, in any state responsibility area, area receiving fire protection by the department by contract, or upon federal lands administered by the United States Department of Agriculture or Department of the Interior, unless the person has a written permit from the department or its duly authorized representative or the authorized federal officer on federal lands administered by the United States Departments of Agriculture or of the Interior and in strict accordance with the terms of the permit:

- At any time in Zone A.
- At any time in Zone B between May 1st and the date the director declares, by proclamation, that the hazardous fire conditions have abated for that year, or at any other time in Zone B during any year when the director has declared, by proclamation, that unusual fire hazard conditions exist in the area.

The issuing agency may require the permittee to contact the agency to determine permit suspension status prior to burning.

Section 4425 - Violations of Permit, Effect.

Any violation of the terms of a burning permit issued pursuant to Section 4423, a restricted temporary burning permit issued pursuant to Section 4423.2, or a campfire permit issued pursuant to Section 4433 renders the permit null and void.

Section 4427 - Clearing and Tools Required.

During any time of the year when burning permits are required in an area pursuant to this article, no person shall use or operate any motor, engine, boiler, stationary equipment, welding equipment, cutting torches, tarpots, or grinding devices from which a spark, fire, or flame may originate, which is located on or near any forest-covered land, brush-covered land, or grass-covered land, without doing both of the following:

- First clearing away all flammable material, including snags, from the area around such operation for a distance of 10 feet.
- Maintain one serviceable round point shovel with an overall length of not less than forty-six (46) inches and one backpack pump water-type fire extinguisher fully equipped and ready for use at the immediate area during the operation.

This section does not apply to portable powersaws and other portable tools powered by a gasoline-fueled internal combustion engine. (see Section 4431 re: powersaws).

Section 4428 - Fire Fighting Tools Required on Industrial Operations; Power Equipment and Log Landings.

No person, except any member of an emergency crew or except the driver or owner of any service vehicle owned or operated by or for, or operated under contract with, a publicly or privately owned utility, which is used in the construction, operation, removal, or repair of the property or facilities of such utility

when engaged in emergency operations, shall use or operate any vehicle, machine, tool or equipment powered by an internal combustion engine operated on hydrocarbon fuels, in any industrial operation located on or near any forest, brush, or grass-covered land between April 1 and December 1 of any year, or at any other time when ground litter and vegetation will sustain combustion permitting the spread of fire, without providing and maintaining, for firefighting purposes only, suitable and serviceable tools in the amounts, manner and location prescribed in this section.

On any such operation a sealed box of tools shall be located, within the operating area, at a point accessible in the event of fire. This fire toolbox shall contain: one backpack pump-type fire extinguisher filled with water, two axes, two McLeod fire tools, and a sufficient number of shovels so that each employee at the operation can be equipped to fight fire.

One or more serviceable chainsaws of three and one-half or more horsepower with a cutting bar 20 inches in length or longer shall be immediately available within the operating area, or, in the alternative a full set of timber-felling tools shall be located in the fire toolbox, including one crosscut falling saw six feet in length, one double-bit ax with a 36-inch handle, one sledge hammer or maul with a head weight of six, or more, pounds and handle length of 32 inches, or more, and not less than two falling wedges.

Each rail speeder and passenger vehicle, used on such operation shall be equipped with one shovel and one ax, and any other vehicle used on the operation shall be equipped with one shovel. Each tractor used in such operation shall be equipped with one shovel.

As used in this section:

- “Vehicle” means a device by which any person or property may be propelled, moved, or drawn over any land surface, excepting a device moved by human power or used exclusively upon stationary rails or tracks.
- “Passenger vehicle” means a vehicle which is self-propelled and which is designed for carrying not more than 10 persons including the driver, and which is used or maintained for the transportation of persons, but does not include any motortruck or truck tractor.

Section 4432 - Neglecting Campfire.

A person shall not leave a campfire, kindled or attended by him, burning or unextinguished unless one of the following requirements is satisfied:

- He leaves some person in attendance.
- The fire is enclosed within a stove, oven, drum, or other nonflammable container, in such manner that the fire cannot escape from the container.

No person shall allow a campfire, kindled or attended by him, to spread after it is built.

Note: A campfire: A fire used by one or more persons while camping, picnicking, recreating, or working on grass, brush, or forest-covered land, to provide any one or a combination of the following: heat for cooking, heat for personal warmth, light for ceremonial, esthetic or other purposes. Campfires include open fires, those contained within fireplaces or enclosed stoves with flues or chimneys, stoves using pressurized liquid or gaseous fuels, portable braziers or space-heating devices which are used outside of any building, trailer, house, or living accommodation mounted on motor vehicle.

Liability: A campfire builder will be held liable for the cost of suppression and damages caused by any wildfire that starts through negligence on his part.

Section 4433 - Same: Permits Required.

A person shall not light, maintain, or use a campfire upon any brush-covered land, grass-covered land, or forest-covered land which is the property of another person unless he first obtains a written permit from the owner, lessee, or agent of the owner or lessee of the property.

If, however, campsites and special areas have been established by the property owner and posted as areas for camping, a permit is not necessary. A written campfire permit duly issued by or under the authority of the United States Forest Service is necessary for use on land under the jurisdiction and control of the United States Forest Service.

Section 4434 - Campfire Escape.

The escape of any campfire from the control of any person who is maintaining the campfire is prima facie evidence that such person was negligent in maintaining the campfire.

Section 4435 - Origination of Fire - Negligence.

If any fire originates from the operation or use of any engine, machine, barbecue, incinerator, railroad rolling stock, chimney, or any other device which may kindle a fire, the occurrence of the fire is prima facie evidence of negligence in the maintenance, operation, or use of such engine, machine, barbecue, incinerator, railroad rolling stock, chimney or other device. If such fire escapes from the place where it originated and it can be determined which person's negligence caused such fire, such person is guilty of a misdemeanor.

Section 4442 – Using Equipment Without Spark Arrester.

(a) Except as otherwise provided in this section, no person shall use, operate, or allow to be used or operated, any internal combustion engine which uses hydrocarbon fuels on any forest-covered land, brush-covered land, or grass-covered land unless the engine is equipped with a spark arrester, as defined in subdivision (c), maintained in effective working order or the engine is constructed, equipped, and maintained for the prevention of fire pursuant to Section 4443.

(b) Spark arresters affixed to the exhaust system of engines or vehicles subject to this section shall not be placed or mounted in such a manner as to allow flames or heat from the exhaust system to ignite any flammable material.

(c) A spark arrester is a device constructed of nonflammable materials specifically for the purpose of removing and retaining carbon and other flammable particles over 0.0232 of an inch in size from the exhaust flow of an internal combustion engine that uses hydrocarbon fuels or which is qualified and rated by the United States Forest Service.

(d) Engines used to provide motive power for trucks, truck tractors, buses, and passenger vehicles, except motorcycles, are not subject to this section if the exhaust system is equipped with a muffler as defined in the Vehicle Code.

(e) Turbocharged engines are not subject to this section if all exhausted gases pass through the rotating turbine wheel, there is no exhaust bypass to the atmosphere, and the turbocharger is in effective mechanical condition.

(f) Motor vehicles when being operated in an organized racing or competitive event upon a closed course are not subject to this section if the event is conducted under the auspices of a recognized sanctioning body and by permit issued by the fire protection authority having jurisdiction.

TITLE 14, CALIFORNIA CODE OF REGULATIONS

Article 2. Fire Hazard Reduction Standard for Railroad Right-of-Way

Section 1290. Application.

The provisions of this Article shall apply within railroad rights-of-way on forest, brush, and grass covered land throughout the state, annually commencing and ending on the dates set forth in 14 California Code of Regulations 1253 by geographic areas.

NOTE. Authority cited: Sections 4201-4204, Public Resources Code. Reference: Sections 4201-4204, Public Resources Code.

History

1. New section filed 1-22-88; operative 2-21-98 (Register 88, No. 6).
2. Renumbering article 7 to article 2 filed 5-30-91; operative 5-30-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

Section 1291. Fire Protection Agreements.

Nothing contained in these regulations shall preempt any order or agreement in effect on the date of adoption of these regulations between an agency responsible for fire protection and an operator, so long as that order or agreement is not in conflict with the regulations contained in this article and is equivalent to or more restrictive than these regulations.

NOTE: Authority cited: Section 4296.5, Public Resources Code. Reference: Section 4296.5. Public Resources Code.

History

1. New section filed 1-22-88; operative 2-21-98 (Register 88, No. 6).

Section 1292. Definitions.

The following definitions shall apply to this article unless the context clearly requires otherwise:

- (a) “Agency Having Primary Responsibility for Fire Protection” means any public agency of the federal, state, county, city, city and county, or district government which is the primary agency responsible directly or through contract for fire prevention and suppression on lands within the jurisdiction of that agency.
- (b) “Authorized Agent” means any employee of an agency having primary responsibility for fire protection who is authorized to enforce the state’s Forest and Fire Laws.
- (c) “Distance” shall in all cases herein mean horizontal distance and not slope distance.
- (d) “Fire Hazard” means a condition resulting from a combination of factors of ease of ignition, heat yield, and rate of fire spread as influenced by particular vegetation and other flammable materials, weather and slope.
- (e) “Flammable Material” shall include, but is not limited to, chips; sawdust; coal; leaves; needles; duff and other dead and desiccated vegetation and ties which are rotten on exposed surfaces or excessively

splintered to the extent they will readily ignite and propagate fire.

“Flammable Material” shall not include:

- (1) wooden poles or towers and crossarms supporting switching circuits or other electrical power or communication conductors not subject to PRC 4292 or 4293;
- (2) wooden ties except as provided above;
- (3) wooden components of trestles, tunnels, and other structures;
- (4) living trees, shrubs, and brush, provided that any dead and desiccated portions are removed so that such living trees, shrubs and brush are not easily ignited or able to propagate fire.

(f) “Forest-, Brush-, and Grass-Covered Land” means lands covered wholly or in part by timber (trees), brush (shrubs), grass (including grain) or other natural vegetation. Cultivated agricultural lands planted to crops other than grain are not included.

(g) “Operator” means the person or entity responsible for maintenance of the railroad right-of-way.

(h) “Order” means a written mandate issued by an authorized agent of a public agency having primary responsibility for fire prevention hazard reduction of the area to destroy, remove or modify any vegetation or other flammable material in order to reduce or eliminate an existing fire hazard on the railroad right-of-way, pursuant to this Article.

(i) “Railroad-Caused Fire” means those preventable fires resulting from operations upon railroad rights-of-way. May not include unpreventable fires such as caused by wrecks, bombs or natural causes (i.e. lightning).

(j) “Right-of-Way” means the strip of land, outside of yard limits, owned or controlled by the person or entity operating the railroad for a distance not exceeding 100 feet or to the property boundary measured at right angles to the axis of the rail at any given location. The distance shall be measured from the outermost rail on both sides of the mainline or mainlines, on sidings, and also includes intervening strips between sidings and mainlines.

(k) “Towpath” means a narrow strip of right-of-way adjacent to each side of ballast which is commonly referred to as the walkway and is normally kept clear for personnel safety and is not less than six feet from outside rail to outer edge.

NOTE: Authority cited: Section 4296.5, Public Resources Code. Reference: Section 4296.5, Public Resources Code.

History

1. New section filed 1-22-88; operative 2-21-88 (Register 88, No. 6).

Section 1293. Minimum Standards.

Railroad rights-of-way shall be maintained in accordance with the following minimum fire hazard reduction standards:

- (a) Area within ten (10) feet of outside rail, including ballast and towpath. The area must be kept clear of flammable material that by its physical arrangement or its accumulation is likely to contribute to the propagation of railroad-caused fires.
- (b) Area within twenty-five (25) feet of outside of rail, including ballast and towpath. The minimum 10

foot standard will be extended to 25 feet if such an area has experienced one (1) or more preventable railroad caused fire(s) in the previous five (5) years. An identified fire start area shall be maintained free of accumulation up to 25 feet as specified for 1/4 mile linear distance on either side of the fire start area and along both sides of the rail track.

(c) Culverts (Conduits) located on right-of-way. Inlet and outlet portals of culverts located within a distance of 25 feet from an outside rail must be kept clear of flammable material for a distance not less than five (5) feet.

(d) Tunnel portals. These areas must be kept clear of all flammable materials, not an integral part of such tunnel portals, for a minimum distance of 30-feet.

NOTE: Authority cited: Section 4296.5, Public Resources Code. Reference. Section 4296.5, Public Resources Code.

History

1. New section filed 1-22-88, operative 2-21-89 (Register 88, No, 6).

Section 1294. Compliance Order.

When an inspection by an authorized agent reveals noncompliance of these minimum standards, an order shall be issued detailing abatement requirements as provided in Section 1295.

NOTE: Authority cited: Section 4296.5, Public Resources Code. Reference: -Section 4296.5, Public Resources Code.

Section 1295. Order Format

An order to destroy, remove or modify vegetation or other flammable material, pursuant to P.R.C. 4296.5 shall be made substantially in the following format:

(Name, Address and Telephone Number of Director's Agent or Agency having Primary responsibility for Fire Protection)

(Name and Address of Railroad Operator)

You are hereby ordered, pursuant to the provision of Section 4296.5 of the California Public Resources Code and in accordance with the provisions of Section 1290 through 1294 of Title 14, California Administrative Code, to abate (clearly describe the vegetation and/or other flammable materials to be abated. Describe so that the area is clearly defined by width, which side of track or both and location by milepost and/or other identifiable landmark or physical feature). Said hazard abatement is to be completed on or before _____. Failure to comply with the provision of this order is misdemeanor as provided by Section 4021 of the California Public Resources Code.

Signature of Authorized Agent or Representative: _____

Title: _____

Date: _____

NOTE: Authority cited: Section 4296.5, Public Resources Code. Reference: Section 4296.5, Public Resources Code.

History

1. New section filed 1-22-88; operative 2-21 -88 (Register 88, No. 6).

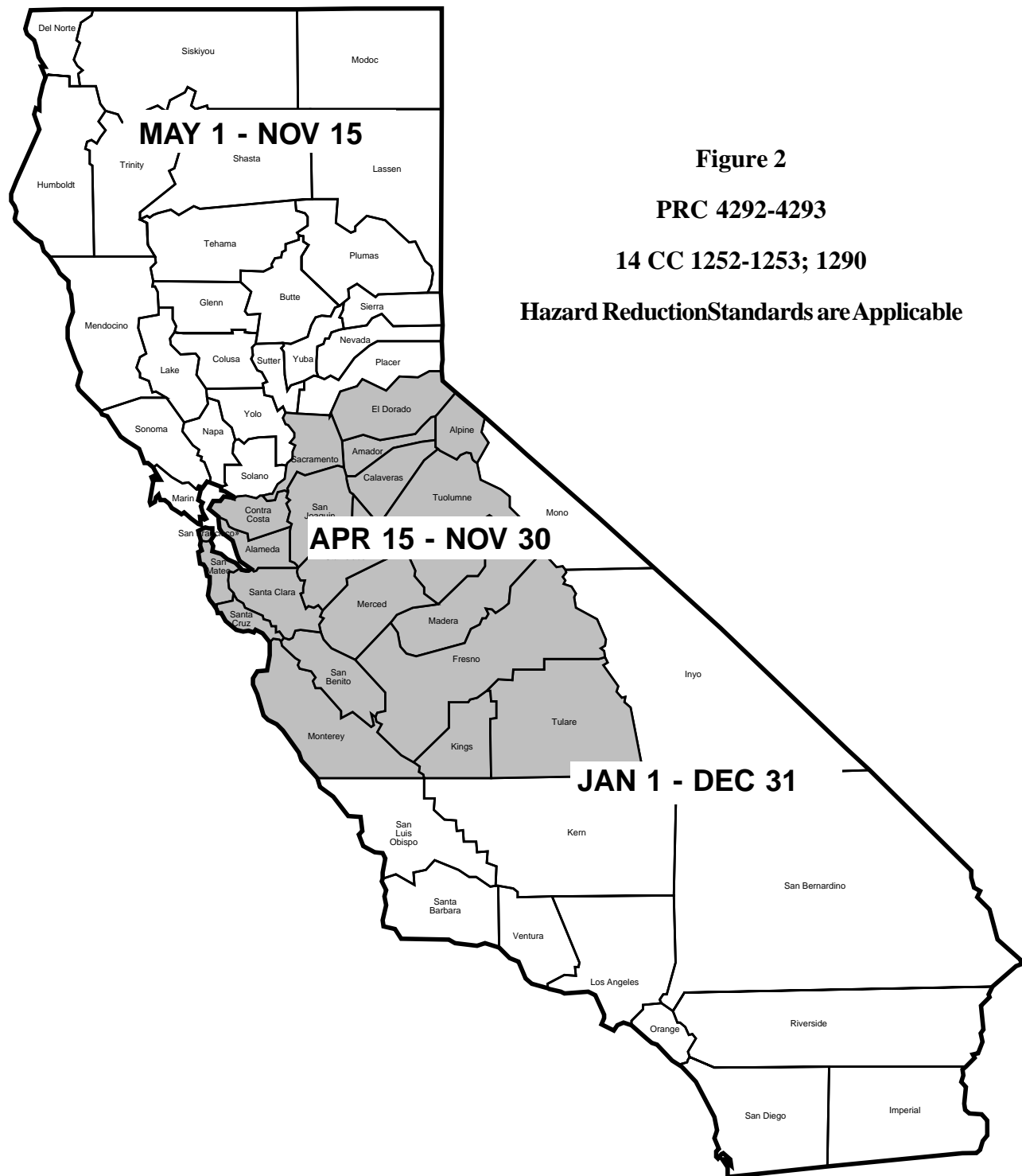


Figure 2
PRC 4292-4293
14 CC 1252-1253; 1290
Hazard Reduction Standards are Applicable

II. FEDERAL REGULATIONS

U.S. FOREST SERVICE TITLE 36 CODE OF FEDERAL REGULATIONS (36 CFR)

Section 261.1 - Scope.

The prohibitions in this part apply, except as otherwise provided, when:

- An act or omission occurs in the National Forest System or on a Forest development road or trail.
- An act or omission affects, threatens, or endangers property of the United States administered by the Forest Service.
- An act or omission affects, threatens, or endangers a person using, or engaged in the protection, improvement or administration of the National Forest System or a Forest development road or trail. ...

Section 261.2 - Definitions.

The following definitions apply to this part: [partial listing]

- “Campfire” means a fire, not within any building, mobile home or living accommodation mounted on a motor vehicle, which is used for cooking, personal warmth, lighting, ceremonial, or esthetic purposes. “Fire” includes campfire.
- “Forest officer” means an employee of the Forest Service.
- “National Forest System” includes all national forest lands and waters reserved or withdrawn from the public domain of the United States, national forest lands and waters acquired through purchase exchange, donation, or other means, national grasslands and land utilization projects and waters administered under Title III of the Bankhead-Jones Farm Tenant Act (50 stat. 525, 7 U.S.C. 1010-1012), and other lands, waters, or interests therein acquired under the Wild and Scenic River Act (16 U.S.C. 1271-1287) or National Trails System Act (16 U.S.C. 1241-1249).
- “Permit” means authorization in writing by a forest officer.
- “State” means any State, the Commonwealth of Puerto Rico, and the District of Columbia.
- “State law” means the law of any State in whose exterior boundaries an act or omission occurs regardless of whether State law is otherwise applicable.
- “Stove fire” means a campfire built inside an enclosed stove or grill, a portable brazier, or a pressurized liquid or gas stove, including a space-heating device.

Section 261.5 - Fire.

The following are prohibited:

- Carelessly or negligently throwing or placing any ignited substance or other substance that may cause a fire.
- Firing any tracer bullet or incendiary ammunition.
- Causing timber, trees, slash, brush or grass to burn except as authorized by permit.
- Leaving a fire without completely extinguishing it.
- Allowing a fire to escape from control.

- Building, attending, maintaining, or using a campfire without removing all flammable material from around the campfire adequate to prevent its escape.

Section 261.50 - Orders.

The Chief, each Regional Forester, each Experiment Station Director, the Administrator of the Lake Tahoe Basin Management Unit and each Forest Supervisor may issue orders which close or restrict the use of described areas within the area over which he has jurisdiction. An order may close an area to entry or may restrict the use of an area by applying any or all of the prohibitions authorized in this subpart or any portion thereof. ...

Section 261.52 - Fire.

When provided by an order, the following are prohibited:

- Building, maintaining, attending or using a fire, campfire, or stove fire.
- Using an explosive.
- Smoking.
- Smoking, except within an enclosed vehicle or building, a developed recreation site, or while stopped in an area at least three feet in diameter that is barren or cleared of all flammable materials.
- Going into or being upon an area.
- Possessing, discharging or using any kind of firework or other pyrotechnic device.
- Entering an area without any firefighting tool prescribed by the order.
- Operating an internal combustion engine.
- Welding, or operating an acetylene or other torch with open flame.
- Operating or using any internal or external combustion engine without a spark arresting device properly installed, maintained and in effective working order, meeting either: (1) Department of Agriculture, Forest Service Standard 5100-1a; or (2) appropriate Society of Automotive Engineers (SAE) recommended practices J335(b) and J350(a).
- Violating any state law specified in the order concerning burning, fires or which is for the purpose of preventing, or restricting the spread of fires.

Note: By authority of this regulation several California statutes have been adopted as Federal Regulations on National Forest land. See below.

ORDER NO. 91-1.

Fire Restrictions - Pacific Southwest Region

Pursuant to 36 CFR 261.50(a) and (b), each of the following is prohibited on lands, Forest Development Roads or Trails under my jurisdiction:

1. Building, maintaining, attending of using a fire, campfire or stove fire in any area outside a developed recreation site. 36 CFR 261.52(a).
 - (a) In Zone A as defined in California Public Resources Code 4413.
 - (b) In Zone B as defined in California Public Resources Code 4413, from May 1 until the date the hazardous fire conditions have been proclaimed abated for the year.

2. Using an explosive. 36 CFR 261.52(b)
3. Smoking, except within an enclosed vehicle or building, a developed recreation site, a designated smoking area, or while stopped in an area at least three feet in diameter that is barren or cleared of all flammable material. 36 CFR 261.52(d)
 - (a) In Zone A as defined in California Public Resources Code 4413.
 - (b) In Zone B as defined in California Public Resources Code 4413, from May 1 until the date the hazardous fire conditions have been proclaimed abated for the year.
4. Possessing, discharging or using any kind of firework or other pyrotechnic device. 36 CFR 261.52(f)
5. Welding or operating any acetylene or other torch with open flame. 36 CFR 261.52(i)
 - (a) In Zone A as defined in California Public Resources Code 4413.
 - (b) In Zone B as defined in California Public Resources Code 4413, from May 1 until the date that the hazardous fire conditions have been proclaimed abated for the year.
6. Operating or using any internal or external combustion engine on any timber, without a spark arresting device properly installed, maintained and in effective working order meeting either: (1) Department of Agriculture, Forest Service Standard 5100-1a; or (2) appropriate Society of Automotive Engineers (SAE) Recommended Practice J335(b) and J350(a). Motor trucks, truck tractors, buses and passenger vehicles, except motorcycles, are not subject to the provisions if the exhaust system is equipped with a muffler as defined in the California Vehicle Code. 36 CFR 261.52(j)
7. Violating any of the following California State Forest and Fire Laws on National Forest Boundary, or adjacent thereto, when such act or omission affects, threatens, or endangers property of the United States administered by the Forest Service. 36 CFR 261.52(k)

Public Resources Code:

- 4291 - Reduction of Fire Hazards Around Buildings
- 4292 - Powerline Hazard Reduction
- 4293 - Powerline Clearance Required
- 4296.5 - Railroad Rights-of-way Clearance
- 4373 - Minimum Requirements for Rubbish Dumps (under permit)
- 4374 - Minimum Requirements for Rubbish Dumps
- 4423 - Written Permit Required for Burning
- 4427 - Clearance and Tools Required
- 4428 - Firefighting Tools Required on Industrial Operations
- 4429 - Industrial Camp Tool Cache
- 4430 - Steam-operated Engine Equipment Requirements
- 4431 - Gasoline Power Saw - Clearance and Equipment Required
- 4438 - Forest Product Waste Disposal (enclosed)
- 4439 - Forest Product Waste Disposal (open)
- 4440 - Forest Product Waste Storage
- 4446 - Incinerator Standards

Pursuant to 36 CFR 261.50(e), each of the following are exempt from this Order:

- a. Persons with a permit specifically authorizing the otherwise prohibited act or omission.
- b. Any Federal, State, or local officer, or member of an organized rescue or fire fighting force in the performance of an official duty.

This order supersedes Order 83-2, issued August 16, 1983. These Prohibitions are in addition to the General Publications in 36 CFR Part 261. This Order may be made more restrictive by temporary orders issued by the Regional Forester or a Forest Supervisor during periods of fire danger.

Executed in San Francisco, California this 24th day of July 1991.

/s/ Laurence Bembry

for Ronald E. Stewart

Regional Forester, Pacific Southwest Region

Violation of these prohibitions is punishable by a fine of not more than \$5,000.00 for an individual or \$10,000.00 for an organization, or imprisonment for not more than six months, or both. See Title 18, U.S. Code Section 3571.

TITLE 49 CODE OF FEDERAL REGULATIONS (49 CFR)

Section 213.37 - Vegetation.

Vegetation on railroad property which is on or immediately adjacent to roadbed shall be controlled so that it does not—

- (a) Become a fire hazard to track-carrying structures;
- (b) Obstruct visibility of railroad signs and signals;
- (1) Along the right-of-way, and (2) At highway-rail crossings; (This paragraph (b) (2) is applicable September 21, 1999.)
- (c) Interfere with railroad employees performing normal trackside duties;
- (d) Prevent proper functioning of signal and communication lines; or
- (e) Prevent railroad employees from visually inspecting moving equipment from their normal duty stations.

Section 218.37 - Flag protection.

- (a) After August 1, 1977, each railroad must have in effect an operating rule which complies with the requirements set forth below:

Except as provided in subparagraph (a) (2) of this section, flag protection shall be provided—

- (i) When a train is moving on the main track at less than one-half the maximum authorized speed (including slow order limits) in that territory, flag protection against following trains on the same track must be provided by a crew member by dropping off single lighted fuses at intervals that do not exceed the burning time of the fusee.
- (ii) When a train is moving on the main track at more than one-half the maximum authorized speed (including slow order limits) in that territory under circumstances in which it may be overtaken, crew members responsible for providing protection will take into consideration the grade, curvature of track, weather conditions, sight distance and relative speed of his train to following trains and will be governed accordingly in the use of fusees. ...

Section 230.203 – Trip or daily inspection.

Each locomotive unit when used in road service (including beltline, transfer or work-train service) shall be inspected at least once every 24 hours, except locomotive units operated on through runs exceeding 24 hours, may be inspected at the next crew change point immediately beyond the point at which the 24-hour period expires.

Section 230.204 - General precautions.

It must be known before each trip that the brakes are in safe and suitable condition for service; that the air compressor or compressors are in condition to provide an ample supply of air for the service in which the locomotive is put; that the devices for regulating all pressures are properly performing their functions; that the brake valves work properly in all positions; and that the water has been drained from the air-brake system.

Section 232.10 - General rules; locomotives.

Air brake and hand brake equipment on locomotives including tender must be inspected and maintained in accordance with the requirements of the Locomotive Inspection and United States Safety Appliance Acts and related orders and regulations of the Federal Railroad Administrator (FRA).

It must be known that air brake equipment on locomotives is in a safe and suitable condition for service.

Foundation brake rigging, and safety supports, where used, must be maintained in a safe and suitable condition for service. Levers, rods, brake beams, hangars and pins must be of ample strength and must not bind or foul in any way that will affect proper operation of brakes. All pins must be properly applied and secured in place with suitable locking devices. Brake shoes must be properly applied and kept approximately in line with treads of wheels or other braking surfaces.

Enginemen when taking charge of locomotives must know that the brakes are in operative condition.

Section 232.11 - Train air brake system tests.

Supervisors are jointly responsible with inspectors, enginemen and trainmen for condition of air brake and air signal equipment on motive power and cars to the extent that it is possible to detect defective equipment by required air tests.

Communicating signal system on passenger equipment trains must be tested and known to be in a suitable condition for service before leaving terminal.

Each train must have the air brakes in effective operating condition, and at no time shall the number and location of operative air brakes be less than permitted by Federal requirements. When piston travel is in excess of 10 inches, the air brakes cannot be considered in effective operating condition.

Condensation must be blown from the pipe from which air is taken before connecting yard line or motive power to train.

Section 232.12 - Initial terminal road train air-brake tests.

Except for run-through and unit run-through trains covered under Section 232.19, each train must be inspected and tested as specified in this section at points—

- Where the train is originally made up (initial terminal);
- Where train consist is changed, other than by adding or removing a solid block of cars, and the train brake system remains charged; and
- Where the train is received in interchange.

Each carrier shall designate additional inspection points not more than 500 miles apart where intermediate inspection will be made to determine that—

- Brake pipe pressure leakage does not exceed 5 pounds per minute;

- Brakes apply on each car in response to a 20-pound service brake pipe pressure reduction; and
- Brake rigging is properly secured and does not bind or foul.

Train air brake system must be charged to required air pressure, angle cocks and cutout cocks must be properly positioned, air hose must be properly coupled and must be in condition for service. An examination must be made for leaks and necessary repairs made to reduce leakage to a minimum. Retaining valves and retaining valve pipes must be inspected and known to be in condition for service. If train is to be operated in electro-pneumatic brake operation, brake circuit cables must be properly connected.

- After the airbrake system on a freight train is charged to within 15 pounds of the setting of the feed valve on the locomotive, but to not less than 60 pounds, as indicated by an accurate gauge at rear end of train, and on a passenger train when charged to not less than 70 pounds, and upon receiving the signal to apply brakes for test, a 15-pound brake pipe service reduction must be made in automatic brake operations, the brake valve lapped, and the number of pounds of brake pipe leakage per minute noted as indicated by brake pipe gauge, after which brake pipe reduction must be increased to full service. Inspection of the train brakes must be made to determine that angle cocks are properly positioned, that the brakes are applied on each car, that piston travel is correct, that brake rigging does not bind or foul, and that all parts of the brake equipment are properly secured. When this inspection has been completed, the release signal must be given and brakes released and each brake inspected to see that all have released.
- Brake pipe leakage must not exceed 5 pounds per minute.
- At initial terminal piston travel of body-mounted brake cylinders which is less than 7 inches or more than 9 inches must be adjusted to nominally 7 inches.

Section 232.13 - Road train and intermediate terminal train air brake tests.

Passenger trains: Before motive power is detached or angle cocks are closed on a passenger train operated in either automatic or electro-pneumatic brake operation, except when closing angle cocks for cutting off one or more cars from the rear end of train, automatic air brake must be applied. After recoupling, brake system must be recharged to required air pressure and before proceeding and upon receipt of proper request or signal, application and release tests of brakes on rear car must be made from locomotive in automatic brake operation. If train is to be operated in electro-pneumatic brake operation, this test must also be made in electro-pneumatic brake operation before proceeding. Inspector or trainman must determine if brakes on rear car of train properly apply and release.

- (a) Freight trains: Before motive power is detached or angle cocks are closed on a freight train, brakes must be applied with not less than a 20 pound brake pipe reduction. After recoupling and angle cocks are opened, it must be known that brake pipe air pressure is being properly restored as indicated by the caboose gauge and that brakes on rear car are released. In the absence of a caboose gauge, air brake test must be made as prescribed by that portion of paragraph (a) of this section pertaining to automatic brake operation.
- (b) At a point other than initial terminal where locomotive or caboose is changed, or where one or more consecutive cars are cut off from rear end or head end of train with consist otherwise remaining intact, after train brake system is charged to within 15 pounds of feed valve setting on locomotive but not less than 60 pounds as indicated at rear of freight train, and on a passenger train to at least 70 pounds, a 20 pound brake pipe reduction must be made and it must be determined that brakes on rear car apply and release properly.

Before proceeding it must be known that brake pipe pressure as indicated at rear of freight train is being restored.

At a point other than a terminal where one or more cars are added to a train, and after the train brake system is charged to not less than 60 pounds as indicated by a gauge at the rear of freight train and on a passenger train to not less than 70 pounds, tests of air brakes must be made to determine that brake pipe leakage does not exceed five (5) pounds per minute as indicated in the brake pipe gauge after a 15-pound brake pipe reduction. After the leakage test is completed, brake pipe reduction must be increased to full service, and it must be known that the brakes on each of these cars and on the rear car of train apply and release. Cars added to train which have not been inspected in accordance with Section 232.12(c)-(j) must be so inspected and tested at next terminal where facilities are available for such attention.

Section 232.19 - Air brake tests on run-through and unit run-through trains.

Each run-through train shall be inspected and tested as prescribed by Section 232.12(c)-(j)—

- Where the train is originally made up (initial terminal);
- Where train consist is changed other than by adding or removing a solid block of cars and train brake system remains charged; and
- At intermediate inspection points not more than 500 miles apart, subject to the requirements of paragraph (f) of this section.

Each carrier shall record the inspections and tests made under Section 232.12(c)-(j) as required by this section at the time they are performed by completing Form FRA F-6180-48 in duplicate. This form shall be signed by the supervisor or other carrier employee responsible for the inspections and tests. One copy of the form shall be kept in the cab of the locomotive until the train arrives at its final terminal, and one copy shall be retained for 3 months at the terminal where the inspections and tests are made.

At locations where the crew of one carrier takes over control and operation of a run-through train or unit run-through train from the crew of another carrier, the receiving carrier shall inspect and test the train to determine that:

- The cab of the locomotive contains a Form FRA F-6180-48 completed as required by paragraph (h) of this section;
- Brake pipe leakage does not exceed 5 pounds per minute; and
- Brakes apply and release on the rear car from a 20-pound service brake pipe pressure reduction.

If the cab of the locomotive does not contain a completed Form FRA F-6180-48, the train must be inspected and tested as prescribed by Section 232.12(c)-(j) before it proceeds.

III. STATE REGULATIONS

PUBLIC UTILITIES COMMISSION (PUC) - General Order 118 (GO118)

It is ordered by the Public Utilities Commission of the State of California that each railroad corporation operating in the State of California shall file its standards for the construction, reconstruction and for the subsequent maintenance of walkways adjacent to its tracks as hereinafter required.

IV. LOCAL ORDINANCES

It is not uncommon for counties, cities and special districts to have five ordinances that affect railroad operations. They are too numerous and varied to allow their listing here. It is therefore important for railroad and protection agency employees alike to learn the provisions of these ordinances and to comply with them.

V. PRIVATE REGULATIONS

ASSOCIATION OF AMERICAN RAILROAD (AAR)

The AAR publishes a 446 page “Field Manual of the AAR Interchange Rules” and an “Office Manual.” These are too lengthy to be reproduced here and most of them have little or no bearing on fire prevention. However, some of these rules, particularly those relating to air brakes and brake equipment relate indirectly to fire prevention. Regulatory as well as operating personnel should be familiar with these rules.

COMPANY RULES

Both the FRA and the PUC implement many of their orders and regulations by requiring each operating company to establish and enforce company rules in certain fields. In addition each company has many rules of its own. These are to be found in various rule books and time tables. Few of them relate directly to fire prevention but a good many relate indirectly.

VI. PERMITS AND EASEMENTS

Most railroad operations are conducted on deeded rights-of-way. Some of these were obtained by land grant and others by purchase. There are, however, significant lengths of railroad right-of-way that are not deeded but which are occupied pursuant to some sort of easement or special use permit with title to the land remaining in someone else’s hands. The title holder is most often, but not always, some branch of government.

These permits and easements almost always contain conditions and stipulations many of which relate to fire prevention. Often they have been in effect so long that they have been forgotten. It is important to review them periodically.